

UTAH CODE CONCEALED WEAPON QUESTIONS

53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1) (a) The division or its designated agent shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days after receiving an application, unless during the 60-day period the division finds proof that the applicant is not of good character.

(b) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(2) (a) An applicant satisfactorily demonstrates good character if the applicant:

- (i) has not been convicted of a felony;
- (ii) has not been convicted of a crime of violence;
- (iii) has not been convicted of an offense involving the use of alcohol;
- (iv) has not been convicted of an offense involving the unlawful use of narcotics or other controlled substances;
- (v) has not been convicted of an offense involving moral turpitude;
- (vi) has not been convicted of an offense involving domestic violence;
- (vii) has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and
- (viii) is qualified to purchase and possess a firearm pursuant to Section 76-10-503 and federal law.

(b) In assessing good character under Subsection (2)(a), the licensing authority shall consider mitigating circumstances.

(3) (a) The division may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant has been or is a danger to self or others as demonstrated by evidence, including:

- (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
- (ii) past participation in incidents involving unlawful violence or threats of unlawful violence;

or

- (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The division may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant has been or is a danger to self or others, the division may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-18-15; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d) (i) If a person granted a permit under this part has been charged with a crime of violence in any state, the division shall suspend the permit.

(ii) Upon notice of the acquittal of the person charged, or notice of the charges having been dropped, the division shall immediately reinstate the suspended permit.

(4) A former peace officer who departs full-time employment as a peace officer, in an honorable manner, shall be issued a concealed firearm permit within five years of that departure if the officer meets the requirements of this section.

(5) Except as provided in Subsection (6), the licensing authority shall also require the applicant to provide:

- (a) the address of the applicant's permanent residence;
- (b) one recent dated photograph;
- (c) one set of fingerprints; and
- (d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (7).

(6) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (5)(d).

(7)(a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) Evidence of general familiarity with the types of firearms to be concealed may be satisfied by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the division;

(ii) certification of general familiarity by a person who has been certified by the division, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under Subsection (7)(b) shall be in person and not through electronic means.

(8)(a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years of age;

(ii) be currently eligible to possess a firearm under Section 76-10-503 and federal law;

(iii) have a current National Rifle Association certification or its equivalent as determined by the division; and

(iv) for certificates issued beginning July 1, 2006, have taken a course of instruction and passed a certification test as described in Subsection (8)(c).

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the division.

(c)(i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the division.

(ii)(A) Beginning May 1, 2006, the division shall provide or contract to provide the course referred to in Subsection (8)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d)(i) Each applicant for certification under this Subsection (8) shall pay a fee of \$50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is \$25.

(iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the division as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (8).

(9) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the division.

(10)(a)(i) A concealed firearms instructor is required to provide a signed certificate to a person successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the division under Subsection (8).

(iii)(A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other person.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (8).

(C) The division shall determine the design and content of the seal to include at least the following:

(l) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the division in compliance with Subsection (5)(d).

(11) The division may deny, suspend, or revoke the certification of a concealed firearms instructor if it has reason to believe the applicant has:

(a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

(b) knowingly and willfully provided false information to the division.

(12) A concealed firearms instructor has the same appeal rights as set forth in Subsection (15).

(13) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the licensing authority are not vicariously liable for damages caused by the permit holder.

(14) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(15)(a) In the event of a denial, suspension, or revocation of a permit, the applicant may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant by certified mail, return receipt requested.

(b) The denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant appeals the denial to the review board, the applicant may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the agency has the burden of proof by a preponderance of the evidence.

(e)(i) Upon a ruling by the board on the appeal of a denial, the division shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final agency action for purposes of judicial review under Section 63G-4-402.

(16) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

53-5-710. Cross-references to concealed firearm permit restrictions.

A person with a permit to carry a concealed firearm may not carry a concealed firearm in the following locations:

(1) any secure area prescribed in Section 76-10-523.5 in which firearms are prohibited and notice of the prohibition posted;

(2) in any airport secure area as provided in Section 76-10-529; or

(3) in any house of worship or in any private residence where dangerous weapons are prohibited as provided in Section 76-10-530.

Amended by Chapter 366, 1999 General Session

UTAH CODE NONRENEWAL QUESTIONS

53A-8-104. Dismissal procedures.

(1) The district shall provide employees with a written statement of causes under which a career employee's contract may not be renewed or continued beyond the then-current school year, under which a contract of each class of personnel may not be renewed or continued beyond the then-current school year, and under which a contract can be otherwise terminated during the contract term, and the orderly dismissal procedures which are used by the district in cases of contract termination, discontinuance, or nonrenewal.

(2)(a) If the district intends to terminate a contract during its term or discontinue a career employee's contract beyond the then current school year for reasons of unsatisfactory performance, the unsatisfactory performance must be documented in at least two evaluations conducted at any time within the preceding three years in accordance with district policies or practices.

(b) The district shall notify a career employee, at least 30 days prior to issuing notice of intent not to renew or continue the employee's contract beyond the then-current school year, that continued employment is in question and the reasons for the anticipated nonrenewal or discontinuance.

(c) The board shall give the career employee an opportunity to correct the problem in accordance with the district evaluation policies.

(d) The board may grant the career employee assistance to correct the deficiencies, including informal conferences and the services of school personnel within the district consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b).

(3)(a) If the career employee does not correct the problem as determined in accordance with the evaluation and personnel policies of the district and the district intends to not renew or discontinue the contract of employment of a career employee at the end of the then-current school year, it shall give notice of that intention to the employee.

(b) The district shall issue the notice at least 30 days before the end of the career employee's contract term.

(4) A district shall notify a provisional employee at least 60 days before the end of the provisional employee's contract if the employee will not be offered a contract for a subsequent term of employment.

(5) In the absence of a notice, an employee is considered employed for the next contract term with a salary based upon the salary schedule applicable to the class of employee into which the individual falls.

(6) If the district intends to not renew or discontinue the contract of a career employee or to terminate a career or provisional employee's contract during the contract term:

(a) the district shall give written notice of the intent to the employee;

(b) the notice shall be served by personal delivery or by certified mail addressed to the individual's last-known address as shown on the records of the district;

(c) except as provided under Subsection (3)(b), the district shall give notice at least 30 days prior to the proposed date of termination;

(d) the notice shall state the date of termination and the detailed reasons for termination;

(e) the notice shall advise the individual that he has a right to a fair hearing and that the hearing is waived if it is not requested within 15 days after the notice of termination was either personally delivered or mailed to the individual's most recent address shown on the district's personnel records; and

(f) the notice shall state that failure of the employee to request a hearing in accordance with procedures set forth in the notice constitutes a waiver of that right and that the district may then proceed with termination without further notice.

(7) The procedure under which a contract is terminated during its term may include a provision under which the active service of the employee is suspended pending a hearing if it appears that the continued employment of the individual may be harmful to students or to the district.

(8)(a) Suspension pending a hearing may be without pay if an authorized representative of the district determines, after providing the employee with an opportunity for an informal conference to discuss the allegations, that it is more likely than not that the allegations against the employee are true and will result in termination.

(b) If termination is not subsequently ordered, the employee shall receive back pay for the period of suspension without pay.

(9) The procedure shall provide for a written notice of suspension or final termination including findings of fact upon which the action is based if the suspension or termination is for cause.

Amended by Chapter 348, 2007 General Session

53A-8-106. Career employee status for provisional employees.

(1) A provisional employee must work for a school district on at least a half-time basis for three consecutive years to obtain career employee status.

(2) Policies of an employing school district shall determine the status of a career employee in the event of the following:

(a) the employee accepts a position which is substantially different from the position in which career status was achieved; or

(b) the employee accepts employment in another school district.

(3) If an employee who is under an order of probation or remediation in one assignment in a school district is transferred or given a new assignment in the district, the order shall stand until its provisions are satisfied.

(4) An employee who is given extra duty assignments in addition to a primary assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary employee in those extra duty assignments and may not acquire career status beyond the primary assignment.

(5) A person is an at-will employee and is not eligible for career employee status if the person:

(a) is a teacher who holds a competency-based license pursuant to Section 53A-6-104.5 and does not hold a level 1, 2, or 3 license as defined in Section 53A-6-103; or

(b) holds an administrative/supervisory letter of authorization pursuant to Section 53A-6-110.

Amended by Chapter 315, 2003 General Session

UTAH CODE REDUCTION IN FORCE (RIF) QUESTIONS

53A-8-107. Necessary staff reduction not precluded.

Nothing in this chapter prevents staff reduction if necessary to reduce the number of employees because of the following:

- (1) declining student enrollments in the district;
- (2) the discontinuance or substantial reduction of a particular service or program;
- (3) the shortage of anticipated revenue after the budget has been adopted; or
- (4) school consolidation.

Amended by Chapter 324, 1999 General Session